

ORDER SHEET

THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

I-Cr. Bail Appln. No.S-281 of 2017

Date _____ Order with signature of Judge _____

1. For order on office objection.
2. For hearing of bail application.

08-11-2017

Mr. Ali Nawaz Ghanghro, advocate for the applicant.
Mr. Ahmed Bux Abro, advocate for the complainant.
Ms. Rubina Dhamrah, A.D.P.P for the State.

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Heard arguments of learned counsel for both parties. For the reasons to be recorded later-on, instant criminal bail application is allowed. The applicant Bakhat Ali Magsi shall be released on post arrest-bail in Crime No.30/2015 of P.S. Behram, subject to furnishing solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousand only) and P.R bond in the like amount to the satisfaction of trial court.


Judge

Abdul Salam P/A

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Mrs. Rubina Dhamrah, ADPP.

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Muhammad Saleem Jessar, J: Through this application, applicant Bakhat Ali Magsi seeks his admission to post-arrest bail in Crime No.30/2015 registered at P.S Behram (District Kamber-Shahdadt @ Kamber), for offences punishable under Sections 302, 34 P.P.C.

Earlier, bail plea of the applicant was declined by learned trial Court i.e. Additional Sessions Judge-I, Shahdadt, vide his Order dated 09.05.2017.

The allegation against applicant Bakhat Ali as per F.I.R lodged by complainant Sikander Ali Magsi on 08.07.2015 is that he alongwith two unknown accused made fires from guns at Barkat Ali (the brother of complainant), whereby committing his murder.

Learned counsel mainly, contended that the alleged incident is said to have taken place in dark hours of night, therefore, mistaken of identity cannot be ruled out; that there is general allegation of making fires against three accused including present applicant and no specific injury is assigned to any of them and in such circumstances it would be determined at trial that who caused the fatal shot to deceased; that applicant is behind bars since 13.07.2015, and not a single witness has been examined by the prosecution, therefore, per learned counsel this is purely case of hardship. In support of his contention, the learned counsel has relied upon the case of *Allah Bakhsh v. The State* (2005 P.Cr.L.J 698), *Sher Alam Khan alias Wakil Khan v. The State* (2011 MLD 349), *Hafiz*



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*Shamroz alias Hafiz v. The State (2011 YLR 956), Juma Khan alias Sajid and another v. The State (2014 YR 1019) and Ehsanullah v. The State (2012 SCMR 1137).*

On the other hand learned ADPP appearing for the State assisted by counsel for complainant opposed grant of bail to applicant on the ground that he has been nominated in F.I.R with specific role of causing injury to deceased resulting into his death.

As per F.I.R, general allegation of making fires against three accused including present applicant is assigned, but no specific injury is attributed to applicant, as such it is to be determined after the trial that whose shot become fatal to deceased. Furthermore, the applicant was arrested on 13.07.2015 and since then he is behind bars and period of about more than two years has passed. The impugned Order reveals that till date of impugned order i.e. 09.05.2017 the charge was not framed, as such the case appears to be of hardship to the applicant.

In view of above circumstances, the applicant has been able to make out a case for bail in his favor. Accordingly, instant bail application was allowed by short order dated 08.11.2017, whereby the applicant was granted bail upon his furnishing a solvent surety in the sum of Rs.200,000/- (Two hundred thousand rupees) and P.R bond in the like amount to the satisfaction of trial Court, and these are the reasons for short order.

  
JUDGE

Ansari/\*